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**FAX NUMBER** 15712738300  
**FROM** charles mirho  
**DATE** 2007-09-06 17:24:23 GMT  
**RE** FSP0152 response

**COVER MESSAGE**

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**CERTIFICATE OF FACSIMILE TRANSMISSION**

for

Attorney Docket Number: FSP0152  
Client Reference Number: 260155US  
Title: network performance determining  
Application Number: 09/995,371  
Filing Date: Monday, November 26, 2001  
First Named Inventor: Cruickshank III, Robert F.  
Group Art Unit: 2151  
Examiner Name: Patel, Dhairyा

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I hereby certify that the following is being transmitted via facsimile to telephone number 571-273-8300 on Thursday, September 06, 2007.

Signature: /Charles A. Mirho/  
Charles A. Mirho

**Contents of This Correspondence**

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10 pages of amendment and remarks  
1 page of Certificate of facsimile  
1 page of Petition for extension of time to reply  
1 page of Fee transmittal to PTO

Authorization to debit deposit account for \$450 dollars.

JUL. 27. 2007 2:32PM OBLON SPIVAK

**SEP 06 2007** NO. 508 P. 2

CH

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,371	11/26/2001	Robert F. Cruickshank III	260155US28	1817
22850	7590	07/05/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.				EXAMINER
1940 DUKE STREET				TRAN, NOHI V
ALEXANDRIA, VA 22314				
			ART UNIT	PAPER NUMBER
			2151	
			NOTIFICATION DATE	DELIVERY MODE
			07/05/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
 oblonpar@oblon.com  
 jgardner@oblon.com

JUL. 27, 2007 2:33PM OBLON SPIVAK

SEP 06 2007 NO. 508 P. 3

Application No.

continuation Sheet (PTOL-324)

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 10 July 2006 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

## THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- 1. Amendments to the specification:
  - A. Amended paragraph(s) do not include markings.
  - B. New paragraph(s) should not be underlined.
  - C. Other \_\_\_\_\_.
- 2. Abstract:
  - A. Not presented on a separate sheet. 37 CFR 1.72.
  - B. Other \_\_\_\_\_.
- 3. Amendments to the drawings:
  - A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - C. Other \_\_\_\_\_.
- 4. Amendments to the claims:
  - A. A complete listing of all of the claims is not present.
  - B. The listing of claims does not include the text of all pending claims (including withdrawn claims).
  - C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - D. The claims of this amendment paper have not been presented in ascending numerical order.
  - E. Other: \_\_\_\_\_.
- 6. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

According to the Pre-Brief Appeal Conference decision, mailed on March 29, 2007, the final rejection, mailed on October 06, 2006, has been withdrawn. Further, the amendment, mailed on July 10, 2006, is non-compliant because the status of claim 30 is cancelled and there should be no text in the cancelled claim.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given no new time period if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted.
2. Applicant is given one month, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1. to 4. are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

Part of Paper No. 20070603

U.S. Patent and Trademark Office  
PTOL-324 (01-06)

Notice of Non-Compliant Amendment (37 CFR 1.121)